

AMENDED IN SENATE JUNE 27, 2005

AMENDED IN ASSEMBLY MAY 3, 2005

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 478

Introduced by Assembly Member Lieber

(Principal coauthor: Senator Alquist)

(~~Coauthor: Assembly Member Leno~~ Coauthors: Assembly

Members Bass, Goldberg, Leno, and Liu)

(Coauthor: Senator Romero)

February 16, 2005

An act to amend Sections 3419, 3423, and 6030 of, and to add Sections 3424 and 5007.7 to, the Penal Code, *and to amend Sections 222 and 1774 of the Welfare and Institutions Code*, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 478, as amended, Lieber. Female inmates *and wards*.

(1) Existing law provides that an inmate who gives birth after her receipt by the Department of Corrections may be declared eligible to participate in a community treatment program that provides for the release of the mother and child to a public or private facility in the community suitable to their needs.

This bill would require any community treatment program in which such an inmate participates to include prenatal care, access to prenatal vitamins, childbirth education, and infant care. This bill would also require the department to establish minimum standards for pregnant inmates who are not eligible for the program including necessary

nutrition and vitamins, information and education, and regular dental cleanings.

(2) Existing law provides that any inmate who ~~would give~~ gives birth to a child during her term of imprisonment may be temporarily taken to a hospital outside the prison for childbirth.

This bill would provide that pregnant inmates taken to a hospital outside the prison shall be transported in the least ~~restrictive~~ restrictive way possible. This bill would also provide that the inmate shall not be shackled by the wrists, ankles, or both during labor, including during transport to the hospital, during delivery, and while in recovery after giving birth, except as specified.

(3) Existing law requires the department to establish minimum standards for local detention facilities, as specified.

This bill would provide that those standards shall require that inmates who are received by the facility while they are pregnant are provided, at a minimum, necessary nutrition and vitamins, information and education, and regular dental cleanings. This bill would also require that these standards provide that at no time shall a woman who is in labor be shackled by the wrists, ankles, or both, including during transport to the hospital, during delivery, and while in recovery after giving birth, except as specified.

(4) *Existing law entitles any female in the custody of a local juvenile facility or the Youth Authority the right to summon and receive the services of any physician and surgeon of her choice to determine if she is pregnant, and to a determination of the medical services needed with regard to the pregnancy.*

This bill would provide that a ward who gives birth while under the jurisdiction of a local juvenile facility, the Department of Corrections and Rehabilitating Division of Juvenile Facilities, or a community treatment program has the right to prenatal care, prenatal vitamins, childbirth education, and infant care. The bill would apply the requirements outlined in (2) above to pregnant wards.

(5) Because this bill would require local officials to provide additional services, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3419 of the Penal Code is amended to
2 read:

3 3419. (a) In the case of any inmate who gives birth after her
4 receipt by the Department of Corrections, the department shall,
5 subject to reasonable rules and regulations promulgated pursuant
6 to Section 3414, provide notice of, and a written application for,
7 the program described in this chapter, and upon her request,
8 declare the inmate eligible to participate in a program pursuant to
9 this chapter if all of the requirements of Section 3417 are met.

10 (b) The notice provided by the department shall contain, but
11 need not be limited to, guidelines for qualification for, and the
12 timeframe for application to, the program and the process for
13 appealing a denial of admittance.

14 (c) Any community treatment program, in which an inmate
15 who gives birth after her receipt by the Department of
16 Corrections participates, shall include, but is not limited to, the
17 following:

- 18 (1) Prenatal care.
- 19 (2) Access to prenatal vitamins.
- 20 (3) Childbirth education.
- 21 (4) Infant care.

22 SEC. 2. Section 3423 of the Penal Code is amended to read:

23 3423. Any woman inmate who would give birth to a child
24 during her term of imprisonment may be temporarily taken to a
25 hospital outside the prison for the purposes of childbirth, and the
26 charge for hospital and medical care shall be charged against the
27 funds allocated to the institution. The inmate shall not be
28 shackled by the wrists, ankles, or both during labor, including
29 during transport to a hospital, during delivery, and while in
30 recovery after giving birth, except as provided in Section 5007.7.
31 The board shall provide for the care of any children so born and

1 shall pay for their care until suitably placed, including, but not
2 limited to, placement in a community treatment program.

3 SEC. 3. Section 3424 is added to the Penal Code, to read:

4 3424. A woman who is pregnant during her incarceration and
5 who is not eligible for the program described in this chapter shall
6 have access to complete prenatal health care. The department
7 shall establish minimum standards for pregnant inmates in its
8 custody who are not placed in a community treatment program
9 including all of the following:

10 (a) A balanced, nutritious diet approved by a doctor.

11 (b) Prenatal information and health care, including, but not
12 limited to, access to necessary vitamins as recommended by a
13 doctor.

14 (c) Information pertaining to childbirth education and infant
15 care.

16 (d) Regular dental cleanings.

17 SEC. 4. Section 5007.7 is added to the Penal Code, to read:

18 5007.7. Pregnant inmates temporarily taken to a hospital
19 outside the prison for the purposes of childbirth shall be
20 transported in the least restrictive way possible, consistent with
21 the legitimate security needs of each inmate. Upon arrival at the
22 hospital, once the inmate has been declared by the attending
23 physician to be in active labor, the inmate shall not be shackled
24 by the wrists, ankles, or both, unless deemed necessary for the
25 safety and security of the inmate, the staff, and the public.

26 SEC. 5. Section 6030 of the Penal Code is amended to read:

27 6030. (a) The Board of Corrections shall establish minimum
28 standards for local detention facilities by July 1, 1972. The Board
29 of Corrections shall review such standards biennially and make
30 any appropriate revisions.

31 (b) The standards shall include, but not be limited to, the
32 following: health and sanitary conditions, fire and life safety,
33 security, rehabilitation programs, recreation, treatment of persons
34 confined in local detention facilities, and personnel training.

35 (c) Such standards shall require that at least one person on
36 duty at the facility is knowledgeable in the area of fire and life
37 safety procedures.

38 (d) The standards shall also include requirements relating to
39 the acquisition, storage, labeling, packaging, and dispensing of
40 drugs.

(e) The standards shall require that inmates who are received by the facility while they are pregnant are provided all of the following:

(1) A balanced, nutritious diet approved by a doctor.

(2) Prenatal information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor.

(3) Information pertaining to childbirth education and infant care.

(4) Regular dental cleanings.

(f) The standards shall provide that at no time shall a woman who is in labor be shackled by the wrists, ankles, or both including during transport to a hospital, during delivery, and while in recovery after giving birth, except as provided in Section 5007.7.

(g) In establishing minimum standards, the Board of Corrections shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Health Services, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in local detention facilities:

The Department of Corrections, the Department of the Youth Authority, local juvenile justice commissions, local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections, the Department of the Youth Authority, local correctional officials, and other interested persons.

SEC. 6. Section 222 of the Welfare and Institutions Code is amended to read:

222. (a) Any female in the custody of a local juvenile facility shall have the right to summon and receive the services of

1 any physician and surgeon of her choice in order to determine
2 whether she is pregnant. If she is found to be pregnant, she is
3 entitled to a determination of the extent of the medical services
4 needed by her and to the receipt of such services from the
5 physician and surgeon of her choice. Any expenses occasioned
6 by the services of a physician and surgeon whose services are not
7 provided by the facility shall be borne by such female.

8 *(b) A ward who gives birth while under the jurisdiction of a*
9 *local juvenile facility or community treatment program has the*
10 *right to the following services:*

11 *(1) Prenatal care.*

12 *(2) Access to prenatal vitamins.*

13 *(3) Childbirth education.*

14 *(4) Infant care.*

15 *(c) A ward shall not be shackled by the wrists, ankles, or both*
16 *during labor, including during transport to a hospital, during*
17 *delivery, and while in recovery after giving birth, subject to the*
18 *security needs described in this section. Pregnant wards*
19 *temporarily taken to a hospital outside the facility for the*
20 *purposes of childbirth shall be transported in the least restrictive*
21 *way possible, consistent with the legitimate security needs of*
22 *each ward. Upon arrival at the hospital, once the ward has been*
23 *declared by the attending physician to be in active labor, the*
24 *ward shall not be shackled by the wrists, ankles, or both, unless*
25 *deemed necessary for the safety and security of the ward, the*
26 *staff, and the public.*

27 *(d) For the purpose of this section, "local juvenile facility"*
28 *means any city, county, or regional facility used for the*
29 *confinement of juveniles for more than 24 hours.*

30 *(e) The rights provided for to females by this section shall be*
31 *posted in at least one conspicuous place to which all female*
32 *wards have access.*

33 *SEC. 7. Section 1774 of the Welfare and Institutions Code is*
34 *amended to read:*

35 1774. *(a) Any female who has been committed to the*
36 *authority shall have the right to summon and receive the services*
37 *of any physician and surgeon of her choice in order to determine*
38 *whether she is pregnant. The director may adopt reasonable rules*
39 *and regulations with regard to the conduct of examinations to*
40 *effectuate such that determination.*

(b) If she is found to be pregnant, ~~such~~ a female is entitled to a determination of the extent of the medical services needed by her and to the receipt of ~~such~~ those services from the physician and surgeon of her choice. Any expenses occasioned by the services of a physician and surgeon whose services are not provided by the facility shall be borne by ~~such~~ the female.

(c) A ward who gives birth while under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities or a community treatment program has the right to the following services:

- (1) Prenatal care.
- (2) Access to prenatal vitamins.
- (3) Childbirth education.
- (4) Infant care.

(d) A ward shall not be shackled by the wrists, ankles, or both during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, subject to the security needs described in this section. Pregnant wards temporarily taken to a hospital outside the facility for the purposes of childbirth shall be transported in the least restrictive way possible, consistent with the legitimate security needs of each ward. Upon arrival at the hospital, once the ward has been declared by the attending physician to be in active labor, the ward shall not be shackled by the wrists, ankles, or both, unless deemed necessary for the safety and security of the ward, the staff, and the public.

(e) Any physician providing services pursuant to this section shall possess a current, valid, and unrevoked certificate to engage in the practice of medicine issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(f) The rights provided ~~for~~ to females by this section shall be posted in at least one conspicuous place to which all female wards have access.

~~SEC. 6.—~~

SEC. 8. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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